SB Civil Writ Petition No. 2004/2006

Smt Manju & ors Vs Addl District and Session Judge & ors

19.9.2006

Hon'ble Mr Justice Ashok Parihar

Mr JK Yogi – for petitioners

Mr D Mantri – for resp No.4

BY THE COURT:

In a case of death, Additional District & Sessions Judge (Fast Track) No.4, Ajmer passed an award dated 1.7.2005, determining the claim for compensation to the tune of Rs.4,58,000/- in favour of the petitioners claimants. The disbursement of the amount to the claimants, however, could be made only after the owner of the vehicle furnishes surety of the amount for recovery by the Insurance Company.

The controversy has been decided by the Apex Court to the extent that Insurance Company is always free to recover the amount from the owner but in view of the judgment of this court in the case of Banwari Lal Vs Gopi Ram, 2005(2) DNJ(Raj) 781, the conditions so imposed by the trial court appear to be wholly unreasonable. The claimants should not be made to suffer only because of the default of the owner of the vehicle. The Insurance Company can always recover the amount from the owner in accordance with law but the claimants cannot be denied disbursement till any surety is submitted by the owner. In the given

cases, the owner may not appear before the court at all or may avoid proceedings. In such eventualities, the claimants cannot be denied compensation, whereas, the prime consideration in such matters is the interest of the claimants.

Accordingly, the writ petition is allowed. Since the amount determined by the trial court has already been deposited by the Insurance Company, the same may now be disbursed to the claimants petitioners as per the award referred to above. So far as recovery of the amount from the owner is concerned, the trial court may proceed in accordance with law.

(Ashok Parihar) J.

bnsharma